

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Steven Tischer)
Serial No.: 10/735,931) Group Art Unit:
Filed: December 15, 2003) 2616
For: SYSTEMS, METHODS, AND STORAGE MEDIUM)
FOR TRANSMITTING DATA OVER A)
COMPUTER NETWORK)

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Commissioner for Patents
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REQUEST FOR PRE-APPEAL BRIEF CONFERENCE

In response to the Final Office Action mailed October 17, 2008, and in conjunction with the concurrently filed Notice of Appeal, Applicants request a Pre-Appeal Brief Conference in view of the following remarks.

REMARKS

In response to the final Office Action dated October 17, 2008, Applicants respectfully request reconsideration in a Pre-Appeal Brief Conference based on the following remarks. Reconsideration and allowance of the claims are respectfully requested in view of the following remarks.

Claims 1-4, 6, 7, 11-15, 17, 18 and 21 were rejected under 35 U.S.C. § 103 as being unpatentable over Labaton in view of Odagawa. This rejection is traversed for the following reasons.

Claim 1 recites, *inter alia*, “wherein the first message modification key value being determined based on the at least one variable parameter and a unique identifier identifying the predetermined recipient, the unique identifier being a biometric identifier obtained from the recipient.” Support for this feature is found in at least paragraph [0024] of Applicant’s specification.

As noted by the Examiner, Labaton fails to teach a unique identifier associated with the predetermined recipient used as part of a first message modification key value. Column 5, lines 10-19 of Labaton discusses a PIN that is used by the **sender** of a message to encrypt a transmission. Labaton fails to teach an identifier **identifying the recipient**. The PIN in Labaton is not related to a predetermined **recipient**.

The Examiner relies on Odagawa as allegedly teaching “a first message modification key value being determined based on the at least one variable parameter and a unique identifier identifying the predetermined recipient, the unique identifier being a biometric identifier obtained from the recipient.” Applicant respectfully disagrees with this interpretation of Odagawa. Odagawa is directed to a system for authenticating a user requesting some service.

Odagawa teaches using biometric information from a recipient of information as part of a verification process. Paragraph [0131] describes that the recipient biometric information is compared to stored biometric information to authenticate a recipient. The biometric information is not used to determine a first message modification key value as recited in claim 1. Rather, the biometric information in Odagawa is used to authenticate the recipient. Thus, even if Labaton and Odagawa are combined, the elements of claim 1 do not result.

For at least the above reasons, claim 1 is patentable over Labaton in view of Odagawa. Claims 2-4, 6 and 7 variously depend from claim 1 and are patentable over Labaton in view of Odagawa for at least the reasons advanced with reference to claim 1.

Claim 11 recites “wherein the first message modification key value is determined based on the at least one variable parameter and a unique identifier identifying the predetermined recipient, the unique identifier being a biometric identifier obtained from the recipient.” As noted above, the combination of Labaton in view of Odagawa fails to teach this feature. Thus, claim 11 is patentable over Labaton in view of Odagawa. Claims 12-15, 17 and 18 depend from claim 11 and are considered patentable for at least the same reasons.

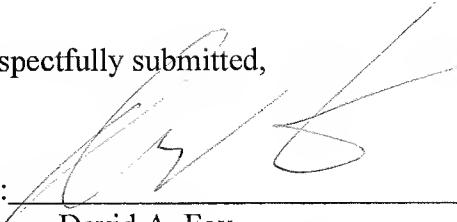
Claim 21 recites “wherein the first message modification key value is determined based on the at least one variable parameter and a unique identifier identifying the predetermined recipient, the unique identifier being a biometric identifier obtained from the recipient.” As noted above, the combination of Labaton in view of Odagawa fails to teach this feature. Thus, claim 21 is patentable over Labaton in view of Odagawa.

Claims 8-10, 19 and 20 were rejected under 35 U.S.C. § 103 as being unpatentable over Labaton in view of Odagawa and Kamperman. This rejection is traversed for the following reasons. Kamperman was relied upon for disclosing transmitting modified data messages, but fails to cure the deficiencies of Labaton in view of Odagawa discussed above with reference to claims 1 and 11. Claims 8-10 depend from claim 1 and claims 19 and 20 depend from claim 11, and are patentable over Labaton in view of Odagawa and Kamperman for at least the reasons advanced with reference to claims 1 and 11.

In view of the foregoing remarks and amendments, Applicant submits that the above-identified application is now in condition for allowance. Early notification to this effect is respectfully requested.

If there are any charges with respect to this response or otherwise, please charge them to Deposit Account 06-1130.

Respectfully submitted,

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